

SUBSTITUTE NO. 1 TO ORDINANCE NO. 09-008

**AN ORDINANCE TO AUTHORIZE LERRO CORPORATION
TO PROVIDE ON SITE ENGINEERING SERVICES TO WITN**

WHEREAS, pursuant to Section 2-308 and Section 8-200 of the City Charter, the City of Wilmington is authorized to enter into contracts for the supply of property or the rendering of services for more than a period of one year if approved by City Council by Ordinance; and

WHEREAS, the City desires to enter into a three year contract that will provide on site engineering services at WITN on a monthly basis; and

WHEREAS, the City has negotiated a Agreement for such services with Lerro Corporation("Lerro") at a price as shown in the Agreement; and

WHEREAS, actual expenditures will be subject to the limitations of the City's annual budgets; and

WHEREAS, the Agreement shall begin upon execution hereof and end approximately February 28, 2012, unless terminated sooner as provided therein; and

WHEREAS, it is the recommendation that the City enter into the Agreement as described above, a copy of which is attached hereto and incorporated by reference as Exhibit "A".

THE COUNCIL OF THE CITY OF WILMINGTON HEREBY ORDAINS:

SECTION 1. The agreement between the City and Lerro Corporation to provide on site engineering services for WITN TV,

**Rev.#1
#3112**

Sponsor:

**Council
Member
Freel**

at a price outlined in the Agreement a copy of which is attached hereto and incorporated by reference herein as Exhibit "A", is hereby approved, and the Mayor and the City Clerk are hereby authorized and directed to execute as many copies of said Agreement, as well as all additional undertakings related thereto, as may be necessary.

SECTION 2. This Substitute Ordinance shall be effective upon its passage by City Council and approval of the Mayor.

First Reading February 5, 2009
Second Reading. . . . February 5, 2009
Third Reading April 16, 2009


Passed by City Council,
April 16, 2009



President of City Council 4/16/09

ATTEST: 

City Clerk

Approved as to form this
 day of April, 2009



Assistant City Solicitor

Approved this 17th day of
April, 2009

J. M. Bales
Mayor

SYNOPSIS: This Substitute Ordinance authorizes the City to enter into a three year agreement with Lerro Corporation to provide on site engineering services to WITN TV. The Substitute Ordinance includes the City's general terms and conditions as an attachment.

AGREEMENT

THIS AGREEMENT, (this "Agreement") made this ____ day of February, 2009, by and between the CITY OF WILMINGTON (hereinafter "City") a municipal corporation of the State of Delaware, and the LERRO CORPORATION (hereafter "Lerro") a corporation located in Norristown, Pennsylvania.

WHEREAS, the City of Wilmington wishes to improve WITN and seeks that the Lerro Corporation provide on site engineering services at the TV station on a monthly basis; and

WHEREAS, the Lerro has agreed to provide the necessary services desired by the City.

NOW, THEREFORE, this Agreement witnesseth that, for and in consideration of the promises of the parties hereto and the mutual benefits to be derived by each there from, the parties herein do hereby agree as follows:

- (1) All studio and field video production equipment is covered.
- (2) The equipment is located at 800 French Street, Wilmington, Delaware.
- (3) The contract term is three (3) years from January 1, 2009 through December 31, 2011.
- (4) Lerro will provide at least one but not more than three monthly on site checks of all video equipment.
- (5) WITN will keep a list of work that needs to be done. On the scheduled service day(s) as much of that work that can be completed will be done. Lerro will perform the most important jobs based on WITN's needs first.

- (6) The remainder of the service day(s) will be used for preventive maintenance. If there is unfinished work that cannot wait until the next month's service time, Lerro will either bill for the additional time or use the scheduled service time for the next month.
- (7) Routine Preventive Maintenance includes cleaning all VTRs, equipment setup, adjustment or reconfiguration.
- (8) On site repair, if possible, of any malfunction that occurs during normal use of the equipment will be covered.
- (9) The monthly service charge does not include parts costs and repairs to equipment that must be sent to Lerro's service facility for repairs.
- (10) The City agrees to provide funding for the site engineering services for WITN through the City Council's 2009, 2010, and 2011 Operating Budgets, in the amount of **ONE THOUSAND TWO HUNDRED FIFTY DOLLARS (\$1,250.00)** per month and are entitled to a maximum of three (3) visits per month.
- (11) The City of Wilmington General Terms and Conditions attached hereto marked as Exhibit A.
- (12) In the event that any funds granted under this agreement are used for purposes other than those specifically stated herein, Lerro may be required to reimburse the City in the total amount of funds, or any portion thereof.

- (13) Failure by the City to enforce any term of this agreement shall not constitute a waiver of such term in the future or prevent the City from enforcing such term by strictly exercising all of its rights under this agreement at any time.
- (14) Any notices under the terms of this agreement, which must or may be given shall be given by hand delivery or by mailing such notices by certified or registered mail, addressed to the respective addresses of the parties as follows:

The City:

Hon. Norman Griffiths, President
Wilmington City Council
800 French Street, 9th Floor
Wilmington, Delaware 19801-3537

The Lerro Corporation:

Marion Murphy - Secretary Treasurer
905 Madison Avenue
Norristown, Pennsylvania 19403

- (15) This agreement may only be amended in writing and signed by both parties.
- (16) Lerro shall defend, indemnify, and hold harmless the City, its employees, agents, and officers, from and against any and all claims, damages, actions, and expenses, including reasonable attorney's fees, resulting from the acts or omissions of Lerro, its employees, agents, or contractors.
- (17) Lerro shall submit monthly bills and reports to the City starting one month from the date hereof regarding the expenditure of City funds for the project.

IN WITNESS WHEREOF, the parties hereto have caused the hands and seals of their authorized representatives to be hereunto affixed.

Dated the day and year first written above in the City of Wilmington, Delaware.

CITY OF WILMINGTON

ATTEST: _____

BY: _____
Hon. Norman Griffiths, President
Wilmington City Council

THE LERRO CORPOATION

ATTEST: _____

BY: _____
Marion Murphy - Secretary Treasurer
The Lerro Corporation

APPROVED AS TO FORM



Assistant City Solicitor

CITY OF WILMINGTON
GENERAL TERMS AND CONDITIONS

1. Insurance Coverage.

Consultant shall provide insurance coverage for itself and all of its employees, if any, used in connection with this Agreement as follows: workers' compensation as required by law; comprehensive general liability coverage for personal injury, including death, and property damage in the minimum amount of One Million Dollars (\$1,000,000.00). Such policies shall be issued by a financially sound carrier and/or carriers and shall be subject to the reasonable approval of the City. Consultant shall provide the City with a certificate of insurance evidencing the above-stated coverage and naming the City as an additional insured.

2. Use of Subcontractors.

Consultant may use qualified consultants, subconsultants, or subcontractors to perform the services required under this Agreement upon the approval of the City.

3. Discrimination.

In the performance of this Agreement, the parties agree that they shall not discriminate or permit discrimination against any person because of age, sex, marital status, race, religion, color, or national origin.

4. Indemnification.

Consultant shall defend, indemnify, and hold harmless the City, its employees, agents, and officers, from and against any and all claims, damages, actions, liabilities and expenses, including reasonable attorney's fees, resulting from the negligent acts or omissions of Consultant, its employees, agents, subcontractors, consultants, or subconsultants in performing the services required under this Agreement.

5. Records.

Consultant shall maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to this Agreement and such other records as may be deemed necessary by the City to assure proper accounting for all project funds. Such records shall be made available for audit purposes to the City or its authorized representatives upon request.

6. Reports and Information.

Consultant, at such time and in such form as the City may require, shall furnish the City such periodic reports as the City may request pertaining to the work or services undertaken pursuant to this Agreement. Time is of the essence of this Agreement.

7. Business License.

Consultant shall obtain and/or maintain an appropriate business license from the City of Wilmington Department of Finance.

8. Taxes.

Consultant shall withhold, if applicable, City of Wilmington wage taxes from the compensation of its officers, agents and employees as required by the City of Wilmington wage tax law.

9. Findings Confidential.

All of the drawings, plans, designs, reports, analyses, specifications, information, examinations, proposals, illustrations, copy, maps, graphics, slides, and documents prepared, assembled, drafted or generated by Consultant under this Agreement are confidential, and Consultant agrees that such documents shall not be made available to anyone, without the prior written approval of the City.

10. Ownership of Information

All of the drawings, plans, designs, reports, analyses, specifications, information, examinations, proposals, brochures, illustrations, copy, maps, graphics, slides, and documents prepared, assembled, drafted, or generated by Consultant in connection with this Agreement shall become the exclusive property of the City. Consultant may keep copies of such documents for its records.

11. Notices

Any notice which is required or may be given in connection with this Agreement shall be addressed to the parties as follows:

The City:

City Solicitor
Law Department 9th floor
City of Wilmington
800 N. French Street
Wilmington, Delaware 19801

12. Independent Contractor

Consultant (and its employees and agents) is an independent contractor and not an employee or agent of the City.

13. Oral Modifications.

This Agreement may not be changed orally, but only by an agreement in writing and signed by both parties.

14. Successors and Assigns.

This Agreement, and all the terms and provisions hereof, shall be binding upon and shall inure to the benefit of the City and Consultant, and their respective legal representatives, successors, and assigns.

15. Delinquent Tax Clause.

The City shall have the right to set off against all monies due and payable under the provisions of this contract, a sum representing the total amount of delinquent taxes and other debts owed the City of Wilmington by the Consultant.